

§ 148.217

33 CFR Ch. I (7–1–08 Edition)

(vi) Estimated economic benefits of the project, including:

- (A) Economic contribution to the local and regional area;
- (B) Induced industrial development;
- (C) Increased employment; and
- (D) Increases in tax revenues;

(vii) Environmental and social impacts of the project on the local and regional community; and

(viii) An estimate of the economic impact that the deepwater port license will have on the proposed project.

(d) A statement whether the port seeks a determination that the port best serves the national interest.

§ 148.217 How can a State be designated as an adjacent coastal State?

(a) Adjacent coastal States are named in the notice of application published in the FEDERAL REGISTER. However, a State not named as an adjacent coastal State in the notice may request to be designated as one if the environmental risks to it are equal to or greater than the risks posed to a State directly connected by pipeline to the proposed deepwater port.

(b) The request must:

(1) Be submitted in writing to the Commandant (G–P) within 14 days after the date of publication of the notice of application in the FEDERAL REGISTER;

(2) Be signed by the Governor of the State;

(3) List the facts and any available documentation or analyses concerning the risk of damage to the coastal environment of the State; and

(4) Explain why the State believes the risk of damage to its coastal environment is equal to or greater than the risk to a State connected by a pipeline to the proposed deepwater port.

(c) Upon receipt of a request, the Commandant (G–P) will send a copy of the State's request to the Administrator of the National Oceanic and Atmospheric Administration (NOAA) and ask for the Administrator's recommendations within an amount of time that will allow the Commandant (G–P) and the MARAD Administrator 45 days from receipt of the request to determine the matter.

(d) If after receiving NOAA's recommendations the Commandant (G–P), in concurrence with MARAD Administrator, determines that the State should be considered an adjacent coastal State, the Commandant (G–P), in concurrence with the MARAD Administrator, will so designate it. If the Commandant (G–P), in concurrence with the MARAD Administrator, denies the request, he or she will notify the requesting State's Governor of the denial.

§ 148.221 How do I claim, or object to a claim, that required information is privileged?

(a) Any person may claim that specific information required pursuant to this part should be withheld because it is privileged, and any person can object to that claim.

(b) Requests or objections must be submitted to the Commandant (G–P) in writing, with sufficient specificity to identify the information at issue, and to show why it should or should not be considered privileged.

(c) The Commandant (G–P) determines whether to grant or deny a claim of privilege.

(d) Submission of a claim stays any deadline for providing the information at issue, unless the claim is made pursuant to the protection for confidential information that is provided by 33 U.S.C. 1513(b), in which case deadlines are not stayed. The Commandant (G–P) may also determine that the information at issue is so material that processing of the application must be suspended pending the determination of the claim.

PUBLIC HEARINGS OR MEETINGS

§ 148.222 When must public hearings or meetings be held?

(a) Before a license is issued, at least one public license hearing under 33 U.S.C. 1504(g) must be held in each adjacent coastal State. Other Federal statutes and regulations may impose additional requirements for public hearings or meetings, and if not otherwise prohibited, a hearing under this paragraph may be consolidated with any such additional hearing or meeting.

(b) The Commandant (G-P) or the MARAD Administrator will publish a notice of public hearings or meetings in the FEDERAL REGISTER, and will mail or deliver a copy of the notice to the applicant, to each adjacent coastal State, and to all who request a copy.

(c) Anyone may attend a public hearing or meeting and provide relevant oral or written information. The presiding officer may limit the time for providing oral information.

§ 148.227 How is a public hearing or meeting reported?

(a) After completion of a public hearing or meeting, the presiding officer forwards a report on the hearing or meeting to the Commandant (G-P) for docketing.

(b) The report must contain at least:

(1) An overview of the factual issues addressed;

(2) A transcript or recording of the hearing or meeting; and

(3) A copy of all material submitted to the presiding officer.

(c) During the hearing or meeting, the presiding officer announces the information that the report must contain.

FORMAL HEARINGS

§ 148.228 What if a formal evidentiary hearing is necessary?

(a) After all public meetings under § 148.222 of this part are concluded, the Commandant (G-PSO), in coordination with the MARAD Administrator, will consider whether there are one or more specific and material factual issues that may be resolved by a formal evidentiary hearing.

(b) If the Commandant (G-PSO), in coordination with the MARAD Administrator, determines that one or more issues under paragraph (a) of this section exist, the Coast Guard will hold at least one formal evidentiary hearing under 5 U.S.C. 554 in the District of Columbia.

(c) The Commandant (G-PSO) files a request for assignment of an administrative law judge (ALJ) with the ALJ Docketing Center. The Chief ALJ designates an ALJ or other person to conduct the hearing.

(d) The recommended findings and the record developed in a hearing under

paragraph (b) of this section are considered by the MARAD Administrator in deciding whether to approve or deny a license.

§ 148.230 How is notice of a formal hearing given?

(a) The Commandant (G-P) publishes a notice of the hearing in the FEDERAL REGISTER and sends a notice of the hearing to the applicant, to each adjacent coastal State, and to each person who requests such a notice.

(b) The notice of the hearing includes the applicant's name, the name of the ALJ assigned to conduct the hearing, a list of the factual issues to be resolved, the address where documents are to be filed, and the address where a copy of the rules of practice, procedure, and evidence to be used at the hearing is available.

§ 148.232 What are the rules for a formal hearing?

(a) The Commandant (G-P) determines the rules for each formal hearing. Unless otherwise specified in this part, the Commandant (G-P) applies the rules of practice, procedure, and evidence in part 20 of this chapter.

(b) The Commandant (G-P) sends a written copy of the procedure to the applicant, each person intervening in the proceedings, and each person who requests a copy.

§ 148.234 What are the limits of an Administrative Law Judge (ALJ)'s jurisdiction?

(a) An ALJ's jurisdiction begins upon assignment to a proceeding.

(b) An ALJ's jurisdiction ends after the recommended findings are filed with the Commandant (G-P) or immediately after the ALJ issues a notice of withdrawal from the proceeding.

§ 148.236 What authority does an Administrative Law Judge (ALJ) have?

When assigned to a formal hearing, an ALJ may:

(a) Administer oaths and affirmations;

(b) Issue subpoenas;

(c) Issue rules of procedure for written evidence;

(d) Rule on offers of proof and receive evidence;